

Attorney Docket No.: J3706(C)  
Serial No.: 10/540,665  
Filed: October 26, 2005  
Confirmation No.: 2390

### REMARKS

Claim 1 has been amended to specify that the alkyl amphotericoate surfactant (c) is chemically different from the amphoteric or zwitterionic surfactant (b). See the specification at page 5, line 30 to page 6, line 2. Additionally, claim 1 has been further amended to clarify that the anti-dandruff agent is an anti-dandruff agent that is in solution in the composition therein described. See the specification at page 7, line 16. Claim 8 has been amended to correct the typographical error noted in the Office Action of June 8, 2007. It is believed that these amendments overcome the objection to claim 8 and the rejection to claim 1 under 35 U.S.C. 112, second paragraph. Entry thereof is respectfully requested.

Claim 1-15 stand rejected under 35 U.S.C. 103(a) as obvious over US 2003/0202952 (Wells et al.). Wells et al. discloses shampoo compositions wherein the anti-dandruff agent is a material (e.g., a pyridinethione salt, selenium sulphide, particulate sulphur or mixtures thereof, with pyridinethione salts being preferred) that is present in the composition in particulate form. In contrast, the anti-dandruff agent present in the subject compositions is in solution; thus, in the subject compositions the anti-dandruff agent is not an insoluble, particulate material. At paragraphs [0005] and [0006] Wells et al. notes:

...When deposition of solid particle benefit agents from washing compositions is intended, the compositions available heretofore have suffered from the drawbacks of inefficient deposition requiring use of excess amounts of the particle agent or ineffective benefit delivery. It has also been attempted to make specific modifications to solid particle benefit agents to improve their deposition efficiency or retention from rinse-off compositions; however this approach can negatively impact the inherent properties, availability, utility, and cost of the solid particle benefit agents to be used.

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It remains, therefore, highly desirable to have a rinse-off composition, preferably a cleansing composition, capable of containing and effectively depositing and retaining anti-dandruff particles on the scalp...(Emphasis added).

Wells et al. goes on to describe the selection of particular cationic polymers as materials that in the described compositions form relatively large coacervates that bind or flocculate with the particle benefit agents and contribute to "superior deposition efficiency." The coacervates are said to have "a cohesive character as evidenced by large, structured flocs which retain a substantial amount of the particle component on dilution and resist deflocculation on exposure to shear" and to "enhance the deposition and retention of particles on hair". See Paragraph [0068]. The aim and focus of Wells et al., is on providing a shampoo composition that provides for deposition and retention of an anti-dandruff active in particulate form. To the extent that climbazole is mentioned by Wells et al., it is as one of numerous other additives that may be present as anti-microbial actives. These microbial agents are additional optional components, not substitutes or replacements for the required particulate anti-dandruff agent. There is nothing in Wells et al. that discloses or suggests compositions in which particulate anti-dandruff agent is absent or that would motivate one skilled in the art to replace the particulate anti-dandruff agent of Wells et al. with an anti-dandruff agent that is solution.

Moreover, in Wells et al., deposition of the particulate anti-dandruff agent is linked largely to the choice of cationic polymer, e.g. cationic polysaccharide, present in the composition. See, for example Paragraph [0059]:

The composition of the present invention includes a cationic deposition polymer of sufficiently high cationic charge density to effectively enhance deposition of the anti-dandruff particle component described herein.

Applicants have found unexpectedly found that in a surfactant-containing composition such as a shampoo, the selection of surfactant can significantly impact

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deposition of anti-dandruff agent present in solution form; more particularly, the applicants have discovered that in a composition containing an anionic surfactant and an amphoteric or zwitterionic surfactant, the inclusion of an alkyl amphoalkanoate surfactant can significantly improve deposition of the anti-dandruff agent. See Example 2, wherein climbazole deposition in compositions containing 12 or 14 wt% sodium lauryl ether sulphate (SLES), 2 wt% cocamidopropylbetaine (CAPB) and 2 wt% sodium cocoamphoacetate (SCAA) was significantly greater than that provided by an otherwise identical composition containing SLES (16 wt%) and CAPB (2 wt.%) but no alkyl amphoalkanoate. There is nothing in Wells et al., that discloses or suggests the effect of amphoteric polymer selection on anti-dandruff agent deposition, or that would motivate one skilled in the art to include an alkyl amphoalkanoate as in the subject application to improve the deposition of an anti-dandruff agent present in solution form.

In light of the above amendments and remarks, it is respectfully submitted that the instant claims, as hereby amended, are not obvious over Wells et al. Accordingly reconsideration and allowance of the claims, as hereby amended is respectfully requested.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,



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